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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TAYLOR J. LEAMING

Appeal 2009-006113
Application 10/829,007
Technology Center 2100

Before ST. JOHN COURTENAY III, THU A. DANG, and
DEBRA K. STEPHENS, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 4-10, 13-19, 22-28, and 31-35. Claims 2, 3, 11, 12, 20, 21, 29, 30, and 36-41 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

Introduction

According to Appellant, the invention relates to information processing and storage with respect to smart cards (Spec. 1, ¶ [0001]). A smart card has an integrated circuit including a transceiver and a processor that communicate with a host device (Spec. 32, Abstract). The processor may provide a default descriptor to and cooperate with the host device to perform an enumeration based on the default descriptor (*id.*). In response to a system event detected by the processor, the processor may also provide at least one alternate descriptor to and cooperate with the host device to perform a new enumeration based upon the alternate descriptor (*id.*).

Exemplary Claim

Claim 1 is an exemplary claim and is reproduced below:

1. An integrated circuit for a smart card comprising:

a transceiver; and

a processor for communicating with a host device over a system bus via said transceiver, said processor for

providing at least one default descriptor to the host device,

cooperating with the host device to perform an enumeration based upon the at least one default descriptor, and

providing at least one alternate descriptor to the host device and cooperating with the host device to perform a new enumeration based thereon based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus.

Prior Art

The Examiner relies on the following prior art references to show unpatentability:

Lu	US 2005/0108571 A1	May 19, 2005 (filed on May 19, 2004)
Maier	US 2005/0251596 A1	Nov. 10, 2005 (filed on July 15, 2003)

Examiner's Rejection

Claims 1, 4-10, 13-19, 22-28, and 31-35 stand rejected under 35 U.S.C. §103(a) as unpatentable over Maier in view of Lu.

GROUPING OF CLAIMS

Appellant argues claims 1, 4-10, 13-19, 22-28, and 31-35 as a group on the basis of claim 1 (App. Br. 8-15). We select independent claim 1 as

the representative claim. We will, therefore, treat claims 4-10, 13-19, 22-28, and 31-35 as standing or falling with representative claim 1.

We accept Appellant's grouping of the claims. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

Appellant argues neither Maier nor Lu teaches the claimed recitation of “providing at least one alternate descriptor to the host device and cooperating with the host device to perform a new enumeration based thereon based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus” in claim 1 (App. Br. 8-15 and Reply Br. 3-4).

Specifically, Appellant argues Maier does not teach that the USB device detaches and re-attaches itself to the USB bus based upon system bus bandwidth allocations to other devices communicating with the host device over the system bus (App. Br. 12 and Reply Br. 4). Instead, according to Appellant, Maier teaches causing the USB device to appear as a mass storage device to the host upon re-attachment (App. Br. 12).

Additionally, Appellant argues Maier discloses the USB host, not the attached smart card, is connected or not connected to the USB device based on system bus bandwidth already allocated to other peripheral devices (Reply Br. 3-4). Maier does not teach that “the smart card (e.g., the smart card processor) that selectively removes its attachment signal from the system bus and re-enumerates based upon an alternate descriptor[] based

upon allocations of the system bus bandwidth to other devices
communication with the host device over the system bus” (Reply Br. 4).

The Examiner finds Maier discloses that a bandwidth reservation is accorded or not by the USB host after an enumeration phase, depending on the bandwidth that is already reserved by other USB devices that are sharing the USB bus (Ans. 11). Thus, the Examiner finds that Maier teaches the card is storing data based on bandwidth reserved by other USB devices (*id.*). The Examiner further finds that the claim does not specify how the “allocating” is performed (*id.*). Lastly, the Examiner finds that Maier teaches devices that were previously attached to the host and therefore teaches detaching and reattaching (*id.*).

Issue: Has Appellant shown that the Examiner erred in finding that Maier and Lu, taken alone or in combination, teaches or suggests “providing at least one alternate descriptor to the host device and cooperating with the host device to perform a new enumeration based thereon based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus” as recited in claim 1?

FINDINGS OF FACT

Maier Reference

- (1) The system includes a USB host connected to a USB device via a USB bus (pg. 2, ¶ [0028]). Communication between the USB host and the USB device may be made according to one of four different transfer modes: a control transfer, an interrupt transfer, a

bulk transfer and an isochronous transfer (pg. 2, ¶¶ [0029] – [0033]).

- (2) “Two of these four modes require a bandwidth reservation, which is accorded or not by the USB host after an enumeration phase, depending on the bandwidth already reserved by other USB devices, which are plugged onto the USB bus” (pg. 2, ¶ [0034]).

ANALYSIS

Appellant’s arguments that Maier does not teach the USB device detaches and re-attaches itself to the USB bus based upon an alternate descriptor based upon system bus bandwidth allocations to other devices communicating with the host device over the system bus (App. Br. 12 and Reply Br. 4) is unpersuasive. Appellant is arguing limitations not recited in the claims (*See* claims 1, 10, 19, and 28). Specifically, claim 1 does not recite the integrated circuit, smart card, or processor attaching or reattaching itself or removing its attachment signal (*id.*).

Appellant’s further argument that Maier teaches the USB host, not the attached smart card, is connected or not connected to the USB device based on system bus bandwidth already allocated to other peripheral devices (Reply Br. 3-4) is similarly unpersuasive. Claim 1 recites that the processor of the integrated circuit *cooperates* “with the host device to perform a new enumeration based thereon based upon allocations of system bus bandwidth to other devices” (*see also* claims 10, 19, and 28). Appellant does not recite which device performs the new enumeration or allocation and thus, Appellant is again arguing limitations not recited in the claims. Indeed we

find Appellant's arguments improperly attempt to narrow the scope of the claim 1 by implicitly adding disclosed limitations which have no basis in the claim 1.

Therefore, Appellant has presented no persuasive arguments or evidence to show the Examiner erred in finding the combination of Maier and Lu teach or suggest suggests "providing at least one alternate descriptor to the host device and cooperating with the host device to perform a new enumeration based thereon based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus" as recited in claim 1 and analogously recited in claims 10, 19, and 28. Accordingly, claims 4-10, 13-19, 22-28, and 31-35 fall with claim.

Arguments which Appellant could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. 37 C.F.R. § 41.37(c)(1)(vii).

CONCLUSION

Accordingly, Appellant has not shown the Examiner erred in rejecting claims 1, 4-10, 13-19, 22-28, and 31-35 under 35 U.S.C. § 103(a) as unpatentable over Maier in view of Lu.

DECISION

We affirm the Examiner's rejection of claims 1, 4-10, 13-19, 22-28, and 31-35 under 35 U.S.C. § 103(a) as unpatentable over Maier in view of Lu.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2009-006113
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AFFIRMED

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